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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/685,067

10/14/2003

Gordon L. Brown JR.

30922-2

4373

7590

10/12/2006

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EXAMINER

DONNELLY, JEROME W

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/685,067

Applicant(s)

BROWN, GORDON L.

Examiner

Jerome W. Donnelly

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3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

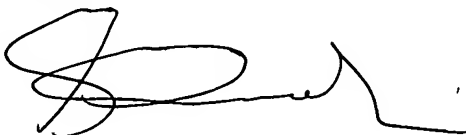
- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/14/03

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____



JEROME DONNELLY
PRIMARY EXAMINER

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Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown.

Claims 1, 2, 3, 4, 5, 6, 7, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown.

In regard to claims 1 and 8 Brown discloses a device comprising an elongated flexible rubber/plastic which is extruded through a thermo-plastic extruder in one embodiment and hand grips which serve as end closures. As far as said rod being loosely fitted note col. 7, line 9.

In regard to claim 2, Browns rod is manufactured of fiberglass.

In regard to claim 3, note Brown col. 3 and 4 and it disclosures of various types of fiber rods.

In regard to claim 4, note fig. 2.

In regard to claims 5 and 6 note. Table 1 of Brown Jr.

In regard to claim 7 note col. 2, lines 67 and 68.

In regard to claim 9, note element no fig. 2.

Claims 10-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Truchelut.

The examiner notes that it would have been obvious to one of ordinary skill in the art to provide padding on the device of Brown for the purpose of allowing the user to place his device against the body and to enhance user comfort, in view of Truchelut.

In regard to claim 15, the examiner notes that it would have been obvious to manufacture the rod of Brown of a pultrusion process See col. 8 line 37.

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Claims 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of Cho.

In regard to claims 11-13 the examiner notes that to provide at least three rod members vs one rod member is obvious, in view of Cho. See Cho fig. 2.

In regard to claim 14, the claimed functionality of the device inherently causes an applied pressure to the edges of the rod.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Romanick in view of Nanni and Vasselli.

Romanick discloses a device being manufactured of plastic, plastic having a degree of flexibility, a rod (40) and closures on the ends.

As to the shape of the rod the examiner notes that it is known to manufacture weight means slidable in tubes of other shapes than circular. (Note Vasselli fig. 16 and 17. The examiner considers rectangular as another obvious shape.

The examiner further notes that lubricated tube members are obvious in view of Nanni, see col. 2, line 28.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Note the overall device of Spence.

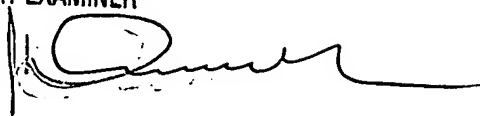
Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

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JEROME DONNELLY
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Jerome Donnelly', written over a horizontal line.

Jerome Donnelly